APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,026	07/26/2001	Gowri Rajaram	UTL 00113	7642

7590	08/12/2004

Kyocera Wireless Corp.
Attn: Patent Department
10300 Campus Point Drive
San Diego, CA 92121

EXAMINER
TORRES, MARCOS L

ART UNIT	PAPER NUMBER
2683	3

DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-32* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date <u>2</u>.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Specification

1.   Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:
(1) if a machine or apparatus, its organization and operation;
(2) if an article, its method of making;
(3) if a chemical compound, its identity and use;
(4) if a mixture, its ingredients;
(5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

2.   The abstract of the disclosure is objected to because, it must be one paragraph and concise. Correction is required. See MPEP § 608.01(b).

3.   The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

4.   Claims 1-32 are objected to because of the following informalities: the claims disclose a device, method and system on the same claim. It is unclear if the application is directed to a device, method or system. Appropriate correction is required.

5.   Claims 1, 15, 17 and 32 are objected to because of the following informalities:

the claim discloses a second plurality of code sections; it is not clear what is the first

plurality of code sections. Appropriate correction is required.

Claim Rejections - 35 USC § 101

6.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 14 rejected under 35 U.S.C. 101 because the claimed invention is directed

to non-statutory subject matter. Changing size.

Claim Rejections - 35 USC § 112

7.   Claims 1, 15, 17 and 32 are rejected under 35 U.S.C. 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention.

8.   Where applicant acts as his or her own lexicographer to specifically define a term

of a claim contrary to its ordinary meaning, the written description must clearly redefine

the claim term and set forth the uncommon definition so as to put one reasonably skilled

in the art on notice that the applicant intended to so redefine that claim term. *Process

Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed.

Cir. 1999). The term "field upgradeable system software" in claims 1, 15, 17 and 32 is

used by the claim to mean "that the software can be upgraded outside of the factory or

offices", while the accepted meaning is "remote upgradeable system." The term is

indefinite because the specification does not clearly redefine the term.

9.   Where applicant acts as his or her own lexicographer to specifically define a term

of a claim contrary to its ordinary meaning, the written description must clearly redefine

the claim term and set forth the uncommon definition so as to put one reasonably skilled

in the art on notice that the applicant intended to so redefine that claim term. *Process

Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed.

Cir. 1999). The term "symbol accessor code" in claims 5, 9 is used by the claim to

mean "symbol access code", while the accepted meaning is "symbol access code." The

term is indefinite because the specification does not clearly redefine the term.

10.   Where applicant acts as his or her own lexicographer to specifically define a term

of a claim contrary to its ordinary meaning, the written description must clearly redefine

the claim term and set forth the uncommon definition so as to put one reasonably skilled

in the art on notice that the applicant intended to so redefine that claim term. *Process

Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed.

Cir. 1999). The term "symbol library" in claims 1-32 is used by the claim to mean "a

combination of object code", while the accepted meaning is "executable file, program,

software, etc." The term is indefinite because the specification does not clearly redefine

the term.

11.   The claims are generally narrative and indefinite, failing to conform with current

U.S. practice. They appear to be a literal translation into English from a foreign

document and are replete with grammatical, idiomatic errors and obsolete terms.

Claim Rejections - 35 USC § 103

12.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

13.   The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating
       obviousness or nonobviousness.

14.   Claim 1-2, 4, 10-14, 17-18, 20, 26-30 and 31-32 are rejected under 35 U.S.C.

103(a) as being unpatentable over Hansson in view Shirai.

Regarding claim 1 and 32, Hansson discloses a method for a wireless

communications device of organizing remote upgrade system software (see col. 1, lines

6-10; col. 4, lines 28-31), and, executing the wireless device system software (see col.

3, lines 19-20). Hansson does not specifically disclose forming system software into a

first plurality of code object libraries, each code object library comprising symbols

having related functionality; arranging the first plurality of code object libraries into a

second plurality of code sections. Shirai discloses forming system software into a first

plurality of code object libraries (see par. 0017), each code object library comprising

symbols having related functionality (see par. 0025). Since the step of arranging the first

plurality of code object libraries into a second plurality of code sections do not disclose the difference or change between libraries and sections, they are treated as the same. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to combine both teaching for the simple purpose of flexibility.

As to claim 2 and 10-14, Shirai discloses the method wherein arranging the first plurality of symbol libraries into a second plurality of code sections includes: starting symbol libraries at the start of code sections; the method further comprising: storing the start of code sections at corresponding start addresses (see par. 0022). Shirai does not specifically disclose maintaining a code section address table cross-referencing code section identifiers with corresponding start addresses. However, OFFICIAL NOTICE IS TAKEN THAT maintaining a code section address table cross-referencing code section identifiers with corresponding start addresses is a common and well-known technique known as symbol table. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this technique for the simple purpose of knowing where is the data for later use.

As to claim 4, Hansson discloses the method of forming system software code into a first plurality of symbol libraries includes forming read-write data for the plurality of symbol libraries; and, wherein arranging the first plurality symbol libraries into a second plurality of code sections includes arranging the read-write data in a shared read-write code section (see col. 3, lines 5-24).

Regarding claim 15, Hansson discloses a method for a wireless communications device of organizing remote upgrade system software (see col. 1, lines 6-10; col. 4,

lines 28-31), and, executing the wireless device system software (see col. 3, lines 19-20). Hansson does not specifically disclose forming system software into a first plurality of code object libraries, each code object library comprising symbols having related functionality; arranging the first plurality of code object libraries into a second plurality of code sections. Shirai discloses forming system software into a first plurality of code object libraries (see par. 0017), each code object library comprising symbols having related functionality (see par. 0025). Since the step of arranging the first plurality of code object libraries into a second plurality of code sections do not disclose the difference or change between libraries and sections, they are treated as the same. Shirai does not specifically disclose maintaining a code section address table cross-referencing code section identifiers with corresponding start addresses. However, OFFICIAL NOTICE IS TAKEN THAT maintaining a code section address table cross-referencing code section identifiers with corresponding start addresses is a common and well-known technique known as symbol table. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to combine both teaching for the simple purpose of flexibility.

As to claim 31, Hansson discloses using system software in a writeable, nonvolatile memory (see col. 1, lines 12-15).

Regarding claims 17-18, 20 and 26-30, they are the corresponding system claims of method claims 1-2, 4, and 10-14. Therefore, claims 17-18, 20 and 26-30 are rejected for the same reason shown above.

15.   Claims 3, 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Hansson in view of Shirai as applied to claims 1-2, 4, 10-14, 17-18, 20, 26-30 and

31-32 above, and further in view of Kuroda.

As to claim 3 and 16, Hansson and Shirai do not specifically disclose the method

of arranging symbols to be offset from their respective code section start addresses;

and the method further comprising: maintaining a symbol offset address table cross-

referencing symbol identifiers with corresponding offset addresses, and corresponding

code section identifiers. Kuroda discloses the method of arranging symbols to be offset

from their respective code section start addresses; and the method further comprising:

maintaining a symbol offset address table cross-referencing symbol identifiers with

corresponding offset addresses, and corresponding code section identifiers (see

abstract). Therefore, it would have been obvious to one of the ordinary skill in the art at

the time of the invention to add this technique to the Hansson and Shirai system for

better management of the memory resources.

Regarding claims 19 is the corresponding system claims of method claims 3.

Therefore, claim 19 is rejected for the same reason shown above.

16.   Claims 5-9 and 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Hansson in view of Shirai as applied to claims 1-2, 4, 10-14, 17-18, 20, 26-30 and

31-32 above, and further in view of Honda.

As to claims 5-9, Hansson and Shirai do not specifically disclose the method

further comprising: storing the symbol accessor code address in a first location in

memory; wherein executing the code sections as system software includes: in response

to referencing the first location in memory, accessing the symbol accessor code; and,

invoking the symbol accessor code to calculate the address of a sought symbol using a

corresponding symbol identifier, and a corresponding code section identifier. Honda

discloses storing the symbol accessor code address in a first location in memory;

wherein executing the code sections as system software includes: in response to

referencing the first location in memory, accessing the symbol accessor code; and,

invoking the symbol accessor code to calculate the address of a sought symbol using a

corresponding symbol identifier, and a corresponding code section identifier (see col. 5,

line 66 – col. 6, line 27). Therefore, it would have been obvious to one of the ordinary

skill in the art at the time of the invention to combine this teaching for accessing the

desire address in the memory.

Regarding claims 21-25, they are the corresponding system claims of method

claims 5-9. Therefore, claims 21-25 are rejected for the same reason shown above.

Conclusion

17.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

    a. Seidel U.S. Patent US005337255A

    b. Peek U.S. Patent US005481706A

    c. Sherer U.S. Patent US005600823A

    d. Costello U.S. Patent US006754894B1

    e. Minear U.S. Publication US 20030060189A1

Any response to this Office Action should be mailed to:

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Hand delivered responses should be brought to:

    Crystal Park II
    2121 Crystal Drive
    Arlington, VA
    Sixth Floor (Receptionist)

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Marcos L Torres whose telephone number is 703-305-

1478. The examiner can normally be reached on 8:00am-5:30pm alt. friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, William G Trost can be reached on 703-308-5318. The fax phone number

for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

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Marcos L Torres
Examiner
Art Unit 2683

Mlt

WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600